

Docket No.: 041-1987

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Satoshi BAN et al.

Serial No. 09/003,812

Filed: 01/07/1998

For: MULTIPURPOSE EARPHONE SET

Group Art Unit: 2644

Examiner: GRIER, LAURA A.

**NOTICE OF APPEAL and
TRANSMITTAL OF COPIES OF MISPLACED PAPERS**

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COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby appeal to the Board of Appeals from the decision of the Primary Examiner, dated April 17, 2003, finally rejecting claims 8 and 10 of the above identified application, while allowing claims 9 and 11 of the application.

The Appeal Fee of \$ 330 is paid by credit card, on accompanying Form PTO 2038.

3 MONTH EXTENSION OF TIME PREVIOUSLY FILED

It is noted that, on September 30, 2003, a Petition for an Extension of Time under 37 C.F.R. 1.136(a) was filed in this application, together with the requisite credit card authorization for payment of the appropriate fee and a Request for Reconsideration and Corrected Action. Therefore, it is not necessary to petition or pay for the three month extension with this Notice.

The papers were filed in the examining group by the undersigned on September 30, 2003. However, as of October 17, 2003, the Examiner has not received the same.

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Serial No. 09/003,812

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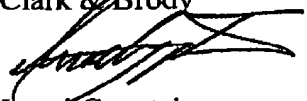
Inasmuch as the Examiner has not yet received the papers filed September 30, 2003, it is apparent that the papers have been lost or misplaced by the USPTO. Accordingly, *copies* of the same are submitted herewith.

More specifically, applicants provide herewith copies of the following papers:

1. a date stamped card, confirming receipt of the papers by Technology Center 2600;
2. a transmittal form identifying the papers being filed and payment made on September 30, 2003;
3. a Petition for Extension of Time;
4. a *redacted copy* of form PTO 2038 filed therewith, in reduced format, is enclosed. It is noted that the enclosed *redacted copy* (which omits the signature and portions of the credit card account number) is *not* provided for payment, but merely as proof of previous filing of the same. Therefore, to avoid duplicate payment of the fee for extension time, the redacted copy is clearly marked as "COPY, NOT FOR PAYMENT"; and
5. a Request for Reconsideration and Corrected Action.

It is respectfully submitted that, having documented applicants' prior submissions, prompt and immediate action on the previously filed Request is in order, as is notice of the appeal taken herein.

Respectfully submitted,
Clark & Brody



Israel Gopstein
Registration No. 27,333

1750 K Street, N.W. Suite 600
writer's direct line: (301) 538-5310
(202) 835-1755 (fax)
October 17, 2003

**ISRAEL GOPSTEIN
ATTORNEY AT LAW**

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DOCKET NO: 041-1987

Ser./Pat. No. 09/003,812

Filing/Issue Date: 01/07/1998 Applicant(s): Satoshi BAN et al. **Technology Center 2600**

THE U.S. PATENT AND TRADEMARK OFFICE STAMP HEREON ACKNOWLEDGES RECEIPT OF:

<input checked="" type="checkbox"/> Amendment/Response	\$	<input type="checkbox"/> Miss. Pts. Resp./w. Decl.	\$
<input type="checkbox"/> Appeal Brief (triplicate)	\$	<input type="checkbox"/> Notice of Appeal	\$
<input type="checkbox"/> Assignment	\$	<input type="checkbox"/> Oral Hearing, Req.	\$
<input type="checkbox"/> Certificate of Correction, Req.	\$	<input type="checkbox"/> Power of Attorney	No fee
<input type="checkbox"/> Change of Address	No fee	<input type="checkbox"/> Priority Document(s)	No fee
<input type="checkbox"/> Claim of Priority	No fee	<input type="checkbox"/> Refund, Request for	No fee
<input type="checkbox"/> Declaration, Sub./Supp.	No fee	<input type="checkbox"/> Reply Brief (triplicate)	No fee
<input type="checkbox"/> Drawing Revisions, Request	No fee	<input type="checkbox"/> Restrict/Elect., Resp.	No fee
<input checked="" type="checkbox"/> Extension of Time, Petition	\$ <u>930.00</u>	<input type="checkbox"/> Revoke Power/Atty. & New Appointment	No fee
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☐ FORM PTO 2038 \$ 930.00 ☐ CHARGE TO DEP. ACCT. NO. _____
☐ CHECK NO. _____ \$ _____ Filed by: Atty/Sec. IG/ Today's date: 9/29/2003

PTO/SB/97 (08-03)

Approved for use through 07/31/2008. OMB 0651-0031

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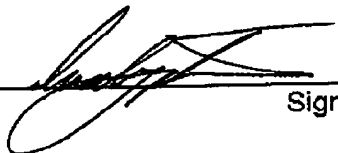
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Attorney Docket No. 041-1987

Certificate of Transmission under 37 CFR 1.8

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Israel Gopstein, Registration No. 27,333

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Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

The following papers are transmitted herewith for filing in Application Serial No. 09/003,812

1. Applicants' transmittal form identifying the papers being filed;
2. NOTICE OF APPEAL and Transmittal of Copies of Misplaced Papers;
3. Form PTO 2038 authorizing payment of \$330 for the NOTICE;
4. Papers related to applicants' filing on September 30, 2003, including:
 - a) Date stamped receipt card acknowledging receipt by Technology Center 2600 of papers filed on September 30, 2003;
 - b) Copy of Applicants' transmittal form dated September 29, 2003 as filed September 30, 2003 noting filing of Request for Reconsideration and Corrected Action, Petition for Extension of Time, and Form 2038 therefor;
 - c) Copy of Petition for Extension of Time dated September 29, 2003 as filed September 30, 2003;
 - d) Redacted and reduced copy of Form 2038 for \$930, dated September 29, 2003 as filed September 30, 2003; and
 - e) Copy of Request for Reconsideration and Corrected Action, dated September 29, 2003 as filed September 30, 2003.

This collection of information is required by 37 CFR 1.8. The information is required to obtain or retain a benefit by the public which is to file (and try the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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